Doc Code: AP.PRE.REQ

# PRE-APPEAL BRIEF REQUEST FOR REVIEW

| Docket Number (Optional) |
|---|
| 56055-0024 |

| Pursuant to 37 CFR 1.8(a)(1)(ii) I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via the electronic filing system in accordance with 37 CFR §§1.6(1)(4) and 1.8(a)(1)(i)(C) on the date indicated below and before 9:00 PM PST.<br><br>on __June 30, 2008__<br>Signature /YipingRLiao#60301/<br><br>Typed or printed<br>name __Yiping Liao__ | Application Number<br>10/773,843 | Filed<br>February 6, 2004 |
|---|---|---|
| | First Named Inventor<br>Neil Duncan Hunt | |
| | Art Unit<br>3625 | Examiner<br>J. Zurita |

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
     Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number_____60,301.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

/YipingRLiao#60301 /
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June 30, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1_____ forms are submitted.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| In re Application of:   Neil Duncan Hunt, et al. | ) | Confirmation No.:  8524 |
| | ) | |
| Application Serial No.:  10/773,843 | ) | Examiner: James Zurita |
| | ) | |
| Filing Date:    February 6, 2004 | ) | Art Unit:  3625 |

For:    Approach for Estimating User Ratings of Items

**Mail Stop AF**
**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, VA 22313-1450**

### ATTACHMENT – PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants are concurrently submitting a Pre-Appeal Brief Request for Review (the

"Request") in response to the Final Office Action mailed December 31, 2007.  Applicants are

filing a Notice of Appeal with the Request.

The Request does not contain any after-final or proposed amendments.

Currently, Claims 7-12, 14-39, 41-66, and 68-87 are pending in this application.

## SUMMARY OF REJECTIONS

Claims 7-12, 14-39, 41-66 and 68-87 are rejected under 35 U.S.C. § 102(e) as being

anticipated by *Linden*, U.S. Patent No. 6,266,649.

## CLEAR ERROR IN REJECTION OF INDEPENDENT CLAIM 1

The Examiner's rejection of independent Claim 1 is based upon clear error.

Claim 7 recites:

> A machine-implemented method for estimating how a particular user
> **would rate a particular item** from a plurality of items, the method
> comprising the machine-implemented steps of:
> identifying one or more items from the plurality of items that have
> ratings similar to the particular item;
> identifying one or more other users that have given ratings to the
> one or more items that are substantially similar to ratings
> given by the particular user to the one or more items; and
> generating **an estimation of how the particular user would rate
> the particular item** based upon ratings for the particular
> item given by the one or more other users.

## What Claim 7 is Directed To

Claim 7 is directed to a method for estimating how a particular user <u>would rate</u> a

particular item. The implicit assumption here is that <u>the particular item has not yet been rated by</u>

<u>the particular user</u>; otherwise, there would be no need to estimate how the particular user would

rate the particular item. Therefore, Claim 7 is directed to generating an estimated rating for an

<u>unrated item</u> (the particular item is unrated by the particular user, though it may have been rated

by users other than the particular user).

## Clear Distinction Between Claim 7 and Linden

Two approaches for recommending items to a user are disclosed in *Linden*: the first is the "collaborative filtering" approach discussed in the "Background" section of *Linden* (*Linden* col. 1 ln. 42-56) and the second is the invention of *Linden*, summarized in the "Summary of the Disclosure" section (*Linden* col. 2 et seq.). However, neither of these approaches teaches or suggests the limitations of Claim 7 because while Claim 7 is directed to <u>generating an estimated rating for an unrated item</u> for a particular user, the *Linden* approaches are directed to <u>recommending items</u> for a particular user.

First, the "collaborative filtering" approach discusses <u>recommending</u> items which were rated highly by users similar to a particular user to the particular user (*Linden* col. 1 ln. 42-56), but does not teach or suggest finding items which have similar ratings to a particular item.

Next, the approach discussed in the Summary section of *Linden* is also directed to <u>recommending</u> items. Here, items which are "similar" to "items of known interest" to the particular user are recommended (*Linden* col. 2 ln. 54 to col. 3 ln. 3). Similarities between items are based on "correlations between the interests of users in particular items" (*Linden* col. 2 ln. 43-45). This approach, however, also does not teach or suggest estimating how a particular user would rate a particular unrated item.

The fact that Claim 7 is directed to generated an estimated rating for a particular item and the *Linden* approaches are directed to generating a list of recommended item is a clear distinction between Claim 7 and *Linden*. Because the *Linden* approaches are directed to recommending items, these approaches <u>are not interested in any particular unrated item</u>. Consequently, *Linden* cannot teach "identifying one or more items from the plurality of items that have ratings similar

to the particular item" simply because no "particular item" is involved in generating

recommendations.

Thus, the Examiner's rejection of Claim 7 based on the *Linden* reference is clearly

erroneous and should be withdrawn.


## OTHER CLAIMS

The rest of the pending claims in the Application either contain limitations similar to

those discussed above with respect to Claim 7, or depend directly or indirectly on claims which

contain those limitations.  Because each of the dependant claims includes the features of claims

upon which they depend, the dependant claims are patentable for at least those reasons the claims

upon which the dependant claims depend are patentable.

## CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance and that the rejections are clearly erroneous. Therefore, Applicants respectfully request that the Panel direct the Examiner to allow the existing claims.

The fee for a Notice of Appeal is submitted concurrently herewith. Please charge any fee that is missing or insufficient to Deposit Account No. 50-1302.

Respectfully submitted,

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